

WELPET ENERGY, L. P.

IBLA 83-693

Decided August 5, 1983

An appeal from a decision of the Utah State Office, Bureau of Land Management, rejecting simultaneous oil and gas lease application U-52656.

Dismissed.

1. Practice Before the Department: Persons Qualified to Practice

An appeal brought on behalf of another by one who does not qualify under 43 CFR 1.3 to practice before the Department is subject to dismissal.

APPEARANCES: Peter W. Hummel on behalf of Welpet Energy, L. P.; Oliver W. Gushee, Jr., Esq., Salt Lake City, Utah, for Lee R. Martin, adverse party.

OPINION BY ADMINISTRATIVE JUDGE STUEBING

Welpet Energy, L. P. (Welpet), filed a simultaneous oil and gas lease application for parcel UT 288 of the January 1983 drawing (lease offer U-52656). Welpet's application was selected with first priority, but the application was rejected by the Utah State Office, Bureau of Land Management (BLM), in a decision dated May 4, 1983, for failure to fully execute the application in accordance with 43 CFR 3112.2-1(b). A notice of appeal and a statement of reasons were submitted by Peter W. Hummel on behalf of Welpet.

[1] Hummel, an independent petroleum producer, declares that "I have no pecuniary interest in Welpet Energy, L. P. whatsoever." His representation of Welpet in this appeal is improper because he has made no showing that he is qualified under 43 CFR 1.3, which defines who may practice before the Department. The Board has repeatedly held that an appeal filed for an appellant by a representative or attorney-in-fact who is not qualified to practice before the Department under the provisions of 43 CFR 1.3 is subject to summary dismissal. John H. Trigg, 74 IBLA 52 (1983); Thomas L. Tuttle, 71 IBLA 265 (1983); United States v. Gayanich, 36 IBLA 111 (1978). This limitation on persons practicing before the Department is a recognized condition pursuant to statutory authority. See 43 U.S.C. § 1464 (1976); Allen Duncan, 53 IBLA 101 (1981). The purpose of this restriction on who may

practice before the Department is not to penalize appellants, but rather to protect them against the risk of inadequate representation by persons untrained in the law.

This Board observes that if we were to consider the merits of this appeal and the arguments presented to us, we would affirm BLM's decision. Welpet's application, automated simultaneous oil and gas lease application form 3112-6a (Part B), was signed by Oded Aboodi without explanation or reference identifying the signatory. Departmental regulations governing simultaneous applications for oil and gas leases provide in part: "Applications signed by anyone other than the applicant shall be rendered in a manner to reveal the name of the applicant, the name of the signatory, and their relationship." 43 CFR 3112.2-1(b).

It has been argued that the signatory, the alleged general partner, is the applicant-in-fact and does not appear as an agent. However, the application was submitted for Welpet and not for Aboodi. Although Welpet, the partnership, cannot physically sign the application and must be represented, a partner's signature, if properly declared and designated, is acceptable because the signatory is identified as possessing the fiduciary capacity to act on behalf of the partnership. Whenever that relationship is not set forth, the authority to represent the named applicant is not established. BLM cannot recognize as sufficient an application where the signatory's capacity to represent the applicant is not set forth, and must reject the application. See Hercules (A Partnership), 67 IBLA 151 (1982). Aboodi's unrevealed relationship to Welpet is not in accordance with the regulatory requirements of 43 CFR 3112.2-1(b).

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the appeal is dismissed.

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Edward W. Stuebing  
Administrative Judge

We concur:

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Gail M. Frazier  
Administrative Judge

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Douglas E. Henriques  
Administrative Judge

